

Hancock

GIS

3061501

PROFESSIONAL SERVICES AGREEMENT

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This Professional Services Agreement ("Agreement") is made by and between The Schneider Corporation ("Schneider"/"Professional"), an Indiana Corporation, and Hancock County, ("Owner"/"Client"), a County Government in, Greenfield, Indiana.

SCHNEIDER

The Schneider Corporation
Historic Fort Harrison
Indianapolis, Indiana 46216
(317) 826-7100

OWNER

Hancock County Commissioners
111 S. American Legion Place
Greenfield, IN 46140
(317) 477-1150

Owner intends to contract for **GIS Professional Services ("Project")**:

Project Name:	GIS Professional Services	Common Location:	Greenfield, IN
Sec/Twp/Rng:	NA	County:	Hancock

AGREEMENT

For and in consideration of the mutual promises contained in this Agreement, Professional and Client agree as follows:

- 1. Scope of Services.** Professional shall provide Client with services in connection with the Project as described in Scope of Services (Attachment A). Professional shall use the standard of care typically exercised in conducting professional practices outlined in the Scope of Services.
- 2. Schedule of Services.** Professional shall start and complete work as set forth in the Scope of Services. Professional shall conduct the work in an expeditious manner subject to limitations such as weather, information acquisition, communications and other factors outside of Professional's control. Both parties recognize that the schedule of services is subject to factors that may be unknown at the time of this Agreement. If modifications, changes or adjustments of these terms and conditions become necessary, such modifications shall be made in accordance with paragraph No. 8 below.
- 3. Authorizations to Proceed.** Unless specifically provided otherwise in the Scope of Services, Client shall give Professional authorizations to proceed for each phase of the Basic Services and for each Additional Service prior to Professional commencing work. Authorizations may be in writing, or may be verbal, with subsequent confirmation in writing.
- 4. Client's Responsibilities:** Client shall do the following in a timely manner so as not to delay the services of Professional: (1) Designate in writing a person to act as Client's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions and receive information with respect to Professional's services for the Project. Professional may rely fully on information and instructions provided by Client's representative. Hereinafter, all references in this Agreement to "Client" mean Client or Client's Representative. (2) Provide all criteria and full information as to Client's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations, and furnish copies of all data needed to create the Project. (3) Assist Professional by placing at Professional's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project; all of which the Professional may use and rely upon in performing the services under this Agreement. (4) Give prompt written notice to Professional whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of Professional's services, or any defect or nonconformance in the work of any contractor.
- 5. Payment for Services.** Client shall compensate Professional for services rendered according to Schedule of Fees (Attachment B). These rates are agreed to in anticipation of the orderly and continuous progress of the Project through completion, and are subject to escalation in accordance with Schedule of Fees.

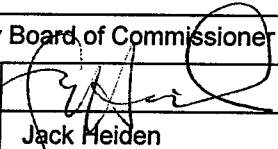
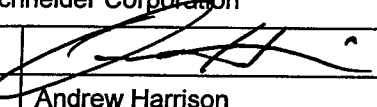
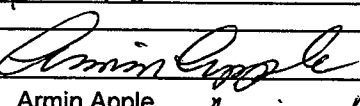
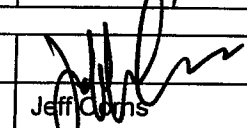
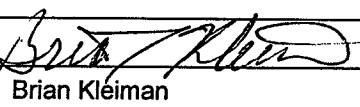
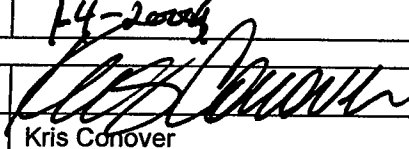
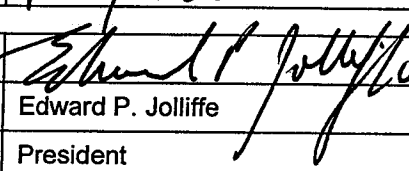
6. **Payment Terms.** Government Client agrees to pay all fees within 60 days of the date of the invoice. Non-government Client agrees to pay all fees within 30 days of the date of the invoice. Balances due over 30 days will be assessed an interest rate of 1½ % per month (18% per year) for Non-Government Client. Client agrees to pay for any costs of collection including, but not limited to lien costs, court costs or attorney's fees involved in or arising out of collecting any unpaid or past due balances.
7. **Invoicing.** Detailed billings will be provided on a monthly basis.
- A. **Fixed Fee** - The invoices will be based on Professional's estimate of the proportion of time spent on each phase of the project at the time of billing relative to the total fee for those phases, plus actual reimbursable expenses.
- B. **Time and Materials** - The invoices will be based on the applicable billing rate for actual hours expended during the billing period, plus reimbursable expenses as outlined in the Schedule of Fees.
8. **Modifications and Adjustments.** If specific periods of time for rendering services set forth in the Scope of Services are exceeded through no fault of Professional, or if Client has requested significant modifications or changes in the general scope, extent or character of the Project, all rates, measures and amounts of compensation, as well as the time of performance, shall be equitably adjusted. The Scope of Services related to the Project may be revised, or modified to include supplementary service for any reason, upon agreement of Professional and Client. Client may modify the scope, extent or character of the Project, necessitating modifications to the Scope of Services or Fee Schedules. In each case, the Scope of Services will be modified in a manner mutually acceptable to the Professional and the Client, and the Fee Schedule will be equitably adjusted to accommodate the changes. Any change to the Scope of Services or the Fee Schedule will be documented in a Contract Change Order. Should the Professional and Client be unable to agree on modifications to the Scope of Services and/or Fee Schedule, Professional shall have the right to terminate this Agreement as outlined in Paragraph No. 9.
9. **Term and Termination.** Professional's obligation to render services under this Agreement will extend for a period which may reasonably be required for the services to be provided, including extra work and required extensions. If Client fails to give prompt authorization to proceed with any phase of services after completion of the immediately preceding phase, or if Professional's services are delayed or suspended by Client for more than three months for reasons beyond Professional's control, Professional may, after giving thirty days written notice to Client, suspend or terminate services under this Agreement. If payment is not received within 60 days of the date of invoice, Professional reserves the right, after giving seven days notice to Client, to suspend services to the Client or to terminate this Agreement. Professional shall not be liable to Client or any third parties for any damages caused by the suspension or termination of work for non-payment. Should the Professional and Client be unable to agree on modifications to the Scope of Services and/or Fee Schedule as outlined in Paragraph No. 8, Professional shall have the right to terminate this Agreement upon thirty days written notice to Client. Client may terminate this Agreement for any reason or without cause upon thirty days written notice to Professional. If any work covered by this Agreement is suspended, terminated or abandoned, the Client shall compensate the Professional for services rendered to the date of written notification of such suspension, termination or abandonment.
10. **Limitation of Liability and Responsibilities.** The Client shall hold harmless and indemnify Professional from all loss, damage, costs and expenses which Professional may suffer or sustain which results from acts or omission or any contractor, subcontractor, supplier, or any of their agents, employees or any other persons (except Professional's own employees and agents) at the site or otherwise furnishing or performing any of the contractor's work. Nothing contained in this paragraph, however, shall be construed to release Professional from liability for failure to properly perform duties and responsibilities assumed by Professional under this Agreement.

11. **Computer Files.** This paragraph sets forth the terms and conditions relating to the provision by Professional of any and all electronic media or computer readable information, including software, databases, and information compilations, and the raw data contained therein (hereafter "Computer Files") in connection with the above referenced Project. Geographic Data Layers converted from Client source documents are considered the property of the Client.
- A. Client acknowledges that the Computer Files are protected by trade secret, copyright, and other proprietary rights, and title and ownership of these rights and in the Computer Files remain in Professional. Professional licenses Client to use the Computer Files in the manner set forth for such Computer Files in the Scope of Services, but Professional reserves all rights not expressly granted. The Computer Files may not be used for purposes beyond those set forth in the Scope of Services, and Professional reserves the right to revoke the license if, in good faith, Professional deems that such use has or will occur. In the event Professional revokes the license, Professional will exercise good faith to negotiate a supplemental license provided Professional is satisfied that no originally prohibited use will occur.
 - B. To the extent the Computer Files include any trade secret or other confidential information of Client, Professional agrees to keep such information confidential. Professional is otherwise free to use the Computer Files and other related materials in other projects for Client or for third parties unless a restriction is set forth in the Scope of Services.
 - C. The Computer Files shall be used only by Client or those third parties expressly contemplated in the Scope of Services (Attachment A) and the license granted hereunder does not include the right to sublicense.
 - D. Except to the extent required by the use(s) expressly set forth in the contract, Client may not: alter, modify or adapt the Computer Files or any part thereof; translate, reverse engineer, de-compile, disassemble, or create derivative works of the Computer Files or any part thereof; or remove or modify any proprietary markings, certifications or restrictive legends physically or electronically placed on the Computer Files.
 - E. Professional warrants to Client that any provided Computer Files will substantially conform to any specification(s) in the Scope of Services (Attachment A) for one (1) year, but does not warrant that the use of any provided software will be uninterrupted or error free. Client's exclusive remedy for breach of this warranty will be to receive replacement of non-conforming Computer Files with conforming Computer Files. If Professional does not provide conforming Computer Files within 60 days after receiving written notice, Client shall be entitled to a refund of the fees paid to Professional in connection with this Agreement.
 - F. Professional shall have no liability or responsibility for problems with the Computer Files (specific to computer software developed by Professional) caused by misuse, improper installation, alteration or modification by Client, or for problems arising out of the malfunction of Client's equipment or other software not supplied by Professional. Client acknowledges that the Computer Files may include features limiting their operability beyond the scope of the license, and Professional shall be entitled to use self-help, including electronic means, to prevent use of the Computer Files beyond their licensed scope. Client acknowledges that, regardless of whether the Computer Files may be useful by Professional in performing other projects or services for Client or that such other potential uses are referenced in the Scope of Services, the right and ability to use the Computer Files in connection with additional projects or services for Client shall reside solely with Professional.
 - G. To the fullest extent allowed by law, and except for the warranties expressly stated herein, the Computer Files are provided "as is", and Professional disclaims all other warranties, terms or conditions, express or implied, either in fact or by operation of law, statutory or otherwise, including warranties, terms or conditions regarding merchantability, fitness for a particular purpose, non-infringement, and satisfactory quality.
 - H. Professional shall not be liable to Client for any incidental, special, indirect, consequential or punitive damages of any character, including without limitation, damages for: loss of business or good will, work stoppage, loss of information or data, loss of revenue or profit, computer failure, or other financial loss arising out of or in connection with the installation, maintenance, use, performance or failure of the Computer Files, regardless of the legal theory asserted, whether based on breach of contract, breach of warranty, tort (including negligence), product liability, or otherwise, and even if Professional has been advised of the possibility of such damages and even if a remedy set forth herein is found to have failed of its essential

purpose. Professional's liability to Client, regardless of the legal theory of any claim, shall not exceed the fees paid to Professional in connection with the contract.

12. **Assignment.** Neither Professional nor Client shall assign, sublet or transfer any rights under or interest in this Agreement without prior written consent of the other party. Any assignments shall be of all rights, obligations, interest and responsibilities hereunder. Nothing in this paragraph shall prevent Professional from employing independent professional associates and consultants to assist in the performance of the services hereunder.
13. **Rights and Benefits.** Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and Professional, and all duties and responsibilities pursuant to this Agreement will be for the sole and exclusive benefit of Client and Professional and not for the benefit of any other party. All reports, drawings, and any other documents, data or information prepared by Professional in conjunction with the services provided for under this Agreement shall remain the sole property of Professional.
14. **Successors.** This Agreement is binding on the partners, successors, executors, administrators and assigns of both parties.
15. **Applicable Law.** The terms and conditions of this Agreement are subject to the laws of the State of Indiana.

This Agreement, consisting of eight pages together with the Attachments identified above, constitute the entire Agreement between Client and Professional and supersede all prior written or oral understandings related thereto. IN WITNESS WHEREOF, the parties hereto have executed this Agreement, or caused this Agreement to be executed by their duly authorized official or agent.

CLIENT		PROFESSIONAL	
County Board of Commissioner		The Schneider Corporation	
By:		By:	
Print:	Jack Heiden	Print:	Andrew Harrison
Title:	Hancock County Commissioner	Title:	GIS Business Development Manager
Date:	12-28-04	Date:	1-4-05
By:		By:	
Print:	Armin Apple	Print:	Jeff Coons
Title:	Hancock County Commissioner	Title:	Department Director
Date:	12-28-2004	Date:	1-4-2005
By:		By:	
Print:	Brian Kleiman	Print:	Kris Conover
Title:	Hancock County Commissioner	Title:	Sector Leader
Date:	12-28-2004	Date:	1-4-05
By:		By:	
Print:		Print:	Edward P. Jolliffe
Title:		Title:	President
Date:		Date:	1-4-05

ATTACHMENT A

SCOPE OF SERVICES

PROJECT NAME: GIS Professional Services

Schneider shall provide Owner with professional and related services in connection with the Project as described below.

The intent of services provided under this contract is to assist Owner with maintenance of the County's GIS. This may include technical support, programming, or the generation of additional layers.

FIXED FEE SERVICES:

Task I: Provide daily maintenance support on an as-needed basis to Hancock County GIS staff for questions related to:

- a. Data entry
- b. Data importation and exportation
- c. Map production
- d. Queries of existing information
- e. Data attachment
- f. Response time to County staff questions (duration for response).

Cost:	Year 1	Year 2	Optional - Year 3
	\$10,000	\$10,000	\$10,000

Task II: Provide monthly on-site assistance to various Hancock County offices to increase their utilization of the GIS. (Minimum 2 day/ month)

- a. Assist in work flow analysis.
- b. Assist in defining possible work solutions.
- c. Assist in defining work priorities.

Note: Specific work solutions to be separate priced tasks at the time needed following defined scope for each by County offices.

Cost:	Year 1	Year 2	Optional - Year 3
	\$24,000	\$24,000	\$24,000

Task III: Serve as moderator for monthly meetings with Cities/Towns/Utilities (1/2 day / month)

- a. Assist in developing GIS goals for each entity.
- b. Assist in defining possible work solutions.
- c. Assist in defining work priorities.
- d. Note: Specific work solutions to be separately priced tasks at the time needed following defined scope for each by work group.

Cost:	Year 1	Year 2	Optional - Year 3
	\$6,000	\$6,000	\$6,000

Task IV: Provide internet hosting of the County's GIS. Hosting is currently distributed by ArcIMS and hosting is to include: (Other options may be suggested by the vendor)

- a. 24 hour/7 days/week Web distribution.
- b. 24 hour/7 days/week maintenance staff support.
- c. The receipt of a minimum download of files from Hancock County weekly.
- d. Compatibility with Hancock County's present Auditor's and Assessor's Manatron/ProVal software.

Cost:	Year 1	Year 2	Optional - Year 3
	\$9,600	\$9,600	\$9,600

Task V: Project Management (% of total project(s))

Cost:	Year 1	Year 2	Optional - Year 3
	\$6,000	\$6,000	\$6,000

Total Fixed Fee Amount (not including hourly services Time & Materials Not to Exceed)

Year 1	Year 2	Optional - Year 3
\$45,600	\$45,600	\$45,600

NOTE: Fixed Fee services require the signing of an Authorization to Proceed before commencement of work.

ATTACHMENT B

FEE SCHEDULE

PROJECT NAME: GIS Professional Services

Owner shall compensate Schneider for services rendered in accordance with the following:

Hourly Services - Owner shall receive monthly invoices reflecting the prior month's Hourly services.

Fixed Fee - Owner shall receive monthly invoices reflecting the prior month's services, based upon a percentage of completion of the project. Percentage of completion will be estimated by Schneider, and regularly communicated with the client.

Other Fixed Fee phases of this project may be developed during the course of this agreement. Once the estimates are accepted, an Authorization to Proceed will have to be signed and submitted before work will begin.

Hourly Fee Schedule

JOB TITLE	REGULAR HOURLY RATE
GIS DIRECTOR	\$126.00
GIS SENIOR PROJECT MANAGER	\$150.00
GIS PROJECT, PRODUCTION MANAGER	\$125.00
GIS SENIOR PROGRAMMER	\$175.00
GIS PROGRAMMER	\$150.00
GIS ANALYST (formerly GIS Programmer)	\$125.00
GIS SENIOR CONSULTANT	\$175.00
GIS CONSULTANT	\$150.00
GIS SPECIALIST	\$125.00
GIS SENIOR TECHNICIAN	\$80.00
GIS TECHNICIAN III	\$70.00
GIS TECHNICIAN II	\$60.00
GIS TECHNICIAN I	\$50.00
ADMINISTRATION	\$50.00
GIS TRAVEL TIME	\$45.00

Certified mailings or Shipping	at cost
Delivery fees	
Marion County	\$22.00
Outside Marion County	\$28.00
Other out-of-pocket expenses	cost plus 10%

All fees remaining under this contract are subject to an increase at the discretion of The Schneider Corporation. The Owner will be notified in writing of any changes in fees.

DESIGNATION OF OWNER'S REPRESENTATIVE

PROJECT NAME: GIS Professional Services

In accordance with Paragraph 4(1) of Schneider's Professional Services Agreement between Owner and Schneider, dated 12/28/2004 and _____ respectively, Owner hereby designates the **County Surveyor** to act as Owner's representative with respect to the services to be rendered under this Agreement. This designee shall have complete authority to transmit instructions and receive information with respect to Schneider's services for the Project unless or except as outlined below.

☒ No Exceptions

☐ Exceptions (List below)

OWNER

By

Print

Jack Heiden

Title

Commissioner Chairman

Date

12/28/2004

AUTHORIZATION TO PROCEED

PROJECT NAME: GIS Professional Services

In accordance with Paragraph 3 of the Professional Services Agreement between Owner and Schneider, dated 12/28/2004 and _____ respectively, The Schneider Corporation is hereby authorized to proceed on the following phases of the project:



Hourly services (provided on demand and invoiced monthly according to Attachment B).

Subject to approval by the Hancock County Council and Indiana State Board of Tax Commissioners.

for OWNER

By

Print

Jack Helden

Title

Commissioner Chairman

Date

12/28/2004

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1. Within the contract, define the differences between Vendor owned and County owned data, files and software (Who owns what?). Explain the differences between "data" and "files". Please use language understandable to non-GIS staff or officials (Thanks!).
 - a. The County owns all data, such as the aerial photography, parcel layer, section layer, soils layer, etc.). The Vendor has no rights to these data products other than in support of the County (the vendor cannot share, sell, or otherwise assign rights to the data).
 - b. The Vendor owns all software products developed by the vendor (GeoGear, Drainage Assessment, etc.). The County has specific license to use the software, but cannot share, sell, or otherwise assign rights to the software.
 - c. A good analogy is Microsoft Excel, which is a common software package used by many counties. Microsoft (the Vendor) owns the software products (Excel), but any data (spreadsheets) created in or maintain using the software package belongs exclusively to the user. The user cannot give away copies of the Excel, and Microsoft cannot sell or distribute any spreadsheet developed by the user.
 - d. Schneider is willing to negotiate if this topic is of serious concern to the County, or if the County has unusual needs concerning ownership of code. It is not Schneider's intent to prohibit the County from successfully using the products in a usually manner.
 2. Clearly define portability of County's products, specifically, those routines that have or will be developed by the Vendor for the County. How readily are or will the County's products fit into equal ESRI distribution products?
 - a. All of Schneider's products are built on industry standard software packages using modern development tools. Hancock County's GIS has a defined data structure and common data transfer routines that are very portable. If the County changed vendors in the future, the only thing the County would lose is access to the customized software developed by Schneider. Other third party packages can be used to maintain the data, irrespective of software developed by Schneider. It is, and has always been, Schneider's goal of fully empowering our clients, and giving them a solution that can be used independent of any specific non-standard proprietary software.
 - b. In other words, Hancock County could switch vendors with minimal technical impact, provided the new vendor was of sufficient experience (there are over 2,000 ESRI Business Partners in the US).
 3. Clearly define tasks to be charged at hourly rates and those tasks that are fixed fee.

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- a. It has been Schneider's experience with Hancock County that the County prefers an hourly service agreement for technical support and ongoing service requests, and fixed fee agreements for specific projects with well defined scope, schedules, and budgets. It is Schneider goal to continue to provide this level of service, unless the County requests otherwise.
 - b. Under the current proposal, the Internet Hosting Fee would be considered a Fixed Fee, while the Monthly On-site Assistance and Moderated Cooperative Program Coordination would be considered Hourly services. Schneider would be happy to consider other arrangements if the County requests.
4. It is understood that specific tasks resulting from meetings with various County departments/cities/towns/utilities will be defined in scope and priced separately from the 2 1/2 days per month on-site.
 - a. That is Schneider's understanding as well.
5. God forbid that the Vendor's distribution system should be shut down or in-operable for several days, however, what plans are in place for such a contingency?
 - a. 24-hour monitoring - all critical systems are monitored every minute of the day to insure that they are working properly. Automated routines are enabled to allow the system to 'self-test' and 'self-repair' to a certain level.
 - b. Redundant ISP links (fiber optic is primary, T1 line as backup). This reduces the vulnerability of relying on one company proving Internet service to Schneider.
 - c. Redundant power (over 1 hour of battery backup and generator for longer outages).
 - d. Redundant/spare servers if catastrophic hardware failures should occur. This allows the Schneider staff to set up a redundant system on or off site in a short period of time.
 - e. Redundant map servers for hot-failover support. This enables secondary map servers to produce maps when the primary servers are experiencing internal errors.
 - f. While there has been an occasional unplanned interruption of service (defined as periods longer than 5 minutes) with the current system, it has an average uptime greater than 99.9%).
6. If the County suffers a financial loss as a result of the Vendor's equipment being shut down, does the Vendor have insurance to cover the loss? Or is the County expected to provide its own coverage for lost time? What should the County expect for its losses?
 - a. Schneider warrants products and services to the extent defined by the Scope of Work and reasonable use expectations. Resolution to breach of warranty is a replacement product or service equal to the price of the contracted product or service.
 - b. Schneider has professional liability insurance, as well as error and omissions insurance requisite of a company of our size and depth.

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- c. The County should expect that Schneider will ensure that all products and services conform to specification and operates effectively error free. If errors in the products development or performance issues arise, Schneider will provide a replacement product or service to the County.
 - d. Website hosting agreements specify that for any time the site is unavailable, Schneider will credit the downtime by extending the service schedule.
 - e. Schneider has never had a client suffer a loss that the client felt was due to a GIS product delivered by Schneider.
7. The County pays its bills on the following cycle: turn in claims by the 15th of the month and distribute payments on the 10th of the following month. Exceptions – January & December. No checks are distributed in January. Two pays are made in December, one on the 10th and another at the end of the month. Please review your contractual request for payments.
- a. Schneider has been, and continues to be, agreeable to these payment terms.



AUTHORIZATION TO PROCEED
Name of Project: GIS Professional Services

In accordance with Paragraph 3 of the Professional Services Agreement between Hancock County, IN ("CLIENT") and The Schneider Corporation ("Professional"), dated December 28, 2004, The Schneider Corporation is hereby authorized to proceed on the following phases of the project:

Software Maintenance

Installed software:

1. Hancock County, IN
 - a. GIS Office:
 - i. One copy of Editor
 - ii. One copy of Navigator
 - b. Auditor's office
 - i. One copy of Editor
 - ii. One copy of Navigator
 - c. Surveyor's Office
 - i. One copy of DrainCalc

Software Maintenance fees: \$3,300

Initial software maintenance period shall be from January 1, 2007 through December 31, 2007

Fixed Fee: \$3,300

CLIENT

Hancock County, IN

By:

David W. Smoll

Print:

DAVID W. SMOLL

Title:

HANCOCK COUNTY SURVEYOR

Date:

APRIL 2, 2007